

IN THE UNITED STATES DISTRICT COURT FOR  
THE SOUTHERN DISTRICT OF GEORGIA  
SAVANNAH DIVISION

FILED  
U.S. DISTRICT COURT  
SAVANNAH DIV.

2019 JUN 27 PM 12:44

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SO. DIST. OF GA.

TERENCE BENNETT a/k/a Terence )  
James Bennett, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
LOANCARE, LLC, )  
 )  
Defendant. )  
 )

CASE NO. CV418-297

O R D E R

Before the Court is Defendant's Motion to Dismiss. (Doc. 5.) Defendant removed this action from the Superior Court of Chatham County on December 13, 2018. (Doc. 1.) Defendant filed its motion to dismiss on December 20, 2018 and served the motion on Plaintiff through the Court's Electronic Case Filing System ("ECF"). (Doc. 5 at 3.) Plaintiff has not filed any response and Defendant subsequently filed its reply in support of its motion to dismiss contending that Plaintiff's failure to file a response indicates that there is no opposition to Defendant's motion. (Doc. 6 at 1.)

While Local Rule 7.5 does provide that failure to respond within the applicable time period to a motion indicates that there is no opposition to a motion, this Court has concerns with service and notification to the Plaintiff. Defendant served the motion via ECF. (Doc. 5 at 3.) While this method of service is

generally sufficient, where the recipient or other party is not a registered participant of ECF, the party does not receive a copy of the pleading. See United States District Court for the Southern District of Georgia Administrative Procedures for Filing, Signing, and Verifying Pleadings and Papers by Electronic Means II(B).<sup>1</sup> Where the recipient party is not a registered party of ECF, "[t]he filing party must, therefore, provide the non-registered party with the pleading, document, or order according to the Federal Rules of Civil Procedure." Administrative Procedures for Filing, Signing, and Verifying Pleadings and Papers by Electronic Means II(B)(3). It appears by the face of the docket that Plaintiff's counsel is not a registered user of ECF. Additionally, Administrative Procedures for Filing, Signing, and Verifying Pleadings and Papers by Electronic Means II(B)(1) n.1 explains how to determine whether another party is a registered user. This process yields the mailing information for this case and provides that Plaintiff's counsel is not on the list to receive e-mail notices for the

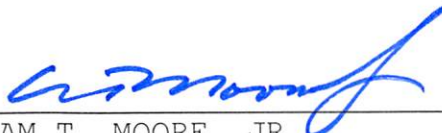
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<sup>1</sup> The United States District Court for the Southern District of Georgia's Administrative Procedures for Filing, Signing, and Verifying Pleadings and Papers by Electronic Means may be accessed at <https://www.gasd.uscourts.gov/sites/gasd/files/RevisedAdminProceduresECF-Dec2-2016.pdf>.

case.<sup>2</sup> Due to the Court's concern that Plaintiff has not received notice of the pending motion to dismiss, the Court will not reach the merits of Defendant's Motion to Dismiss at this time.

Accordingly, Defendant is **DIRECTED** to serve Plaintiff with a copy of this order, its motion to dismiss, and its reply in support of its motion to dismiss within **fourteen days** of the date of this Order in accordance with the Federal Rules of Civil Procedure. Plaintiff's counsel is reminded that, pursuant to Local Rule 83.4(a), Georgia bar members who reside in this district must join this Court's bar to represent a party. Additionally, all members of the Bar of the Southern District are required to register for ECF and use ECF to file documents and pleadings. The Clerk of Court is **DIRECTED** to terminate Defendant's Motion to Dismiss (Doc. 5) for statistical purposes only.

SO ORDERED this 7<sup>th</sup> day of June 2019.

  
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WILLIAM T. MOORE, JR.  
UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF GEORGIA

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<sup>2</sup> The Court makes no certification of the accuracy of Plaintiff's counsel's mailing address.